

IN THE SUPREME COURT OF THE REPUBLIC OF SINGAPORE

PRACTICE DIRECTION NO. 3 OF 2007

**CHANGE TO JURISDICTIONAL THRESHOLD FOR TRANSFER OF
MATRIMONIAL PROCEEDINGS TO THE HIGH COURT**

Presently, matrimonial proceedings under Part X of the Women's Charter (Cap. 353, 1997 Rev Ed) and proceedings pursuant to s 17A(2) of the Supreme Court of Judicature Act (Cap. 322, 2007 Rev Ed) are transferred to be heard and determined by the High Court when any party to the proceedings asserts that the *gross* value of the matrimonial assets is of or above the value of \$1.5 million.

2 However, there are cases where the actual *net* value of the assets available for matrimonial division is in fact much lower than \$1.5 million, because of existing liabilities such as an outstanding mortgage loan on the matrimonial property. In order to ensure that the High Court's resources are utilised to deal only with those cases where the actual value of the matrimonial assets available for distribution is sufficiently high, the *net* value (instead of the *gross* value) of the matrimonial assets will henceforth be used to determine whether the proceedings shall be transferred to the High Court.

3 To bring about this change, the Supreme Court of Judicature (Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings to District Court) Order 2007 and the Supreme Court of Judicature (Transfer of Proceedings Pursuant to Section 17A(2)) Order 2007 (collectively referred to as "the New Transfer Orders") will come into operation, with effect from 1 January 2008.

4 Under the New Transfer Orders, in

- (a) matrimonial proceedings under Part X of the Women’s Charter; and
- (b) proceedings pursuant to section 17A(2) of the Supreme Court of Judicature Act,

where there is a contested application for the division of matrimonial assets that are asserted by any party to the proceedings to be worth a *net* value of \$1.5 million or more, the proceedings shall, upon the direction of the Registrar of the Subordinate Courts that the ancillary issues are ready for hearing, be transferred to and be heard and determined by the High Court. “Net value of the matrimonial assets” is defined in the New Transfer Orders as “the total value of the assets, less any outstanding liabilities which are due to third parties”.

5 Practitioners are reminded that in such transferred proceedings, the High Court may make the appropriate order as to costs in the event that the net value of the matrimonial assets is found to be below \$1.5 million.

6 Detailed instructions on the procedure for declaration of the net value of the matrimonial assets, as well as guidance on the calculation of net value, can be found in the Subordinate Courts ePractice Direction No. 4 of 2007 which will be issued in due course.

7 Practitioners should pay particular attention to the requirement of leave to appeal in the relevant provisions of the New Transfer Orders.

8 This practice direction makes the necessary amendments to Part XVIII of *The Supreme Court Practice Directions (2007 Ed)* to reflect the new jurisdictional threshold based on net value.

9 This practice direction shall take effect on 1 January 2008.

10 This practice direction should be included in *The Supreme Court Practice Directions (2007 Ed)* immediately before the first page of the table of contents. Instructions for effecting the amendments to *The Supreme Court Practice Directions (2007 Ed)* are contained in the Appendix hereto.

Dated this 21st day of December 2007.



FOO CHEE HOCK
DEPUTY REGISTRAR
SUPREME COURT

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PART XVIII

**MATRIMONIAL PROCEEDINGS AND MATTERS RELATING TO THE
GUARDIANSHIP OF INFANTS**

**135. Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings
to the Family Court of the Subordinate Courts**

- (1) The Honourable the Chief Justice has made the following orders under section 28A of the Supreme Court of Judicature Act (Cap. 322):
 - (a) The Supreme Court of Judicature (Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings to District Court) Order 1996, which came into operation on 1 April 1996 (“the 1996 Transfer Order”);
 - (b) The Supreme Court of Judicature (Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings to District Court) Order 2003, which came into operation on 15 December 2003 (“the 2003 Transfer Order”);
 - (c) The Supreme Court of Judicature (Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings to District Court) Order 2005, which came into operation on 1 April 2006 (“the 2005 Transfer Order”); and
 - (d) The Supreme Court of Judicature (Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings to District Court) Order 2007, which came into operation on 1 January 2008 (“the 2007 Transfer Order”).

- (2) To improve efficiency in the administration of justice and to provide for more speedy disposal of proceedings commenced in the High Court, pursuant to the 1996 Transfer Order:
 - (a) all proceedings under section 59 and Part X of the Women's Charter (Cap. 353, 1997 Rev Ed) and the Guardianship of Infants Act (Cap. 122, 1985 Rev Ed) (referred to in this Part as "family proceedings"), commenced in the High Court on or after 1 April 1996, shall be transferred to and be heard and determined by a District Court; and
 - (b) all family proceedings commenced before 1 April 1996 as well as any proceedings ancillary thereto shall continue to be heard and determined by the High Court.

- (3) The transfer of family proceedings to the District Court can result in the District Court hearing family proceedings in which the value of the matrimonial assets concerned far exceeds the normal civil jurisdictional limit of the District Court. Further, to encourage the growth of family law jurisprudence, the 2003 Transfer Order and the 2005 Transfer Order provide that proceedings under Part X of the Women's Charter, in which there is a contested application for the division of matrimonial assets asserted by any party to the proceedings to be worth a gross value of \$1.5 million or more, shall be transferred from the District Court to the High Court to be heard and determined. This "transfer back" to the High Court based on the gross value of assets applied to proceedings under Part X of the Women's Charter commenced on or after 15 December 2003.

- (4) There can however be cases where the actual net value of the assets available for matrimonial distribution is in fact much lower than \$1.5 million, because of existing liabilities such as an outstanding mortgage loan on the matrimonial property. In order to ensure that the High Court's resources are utilised to deal only with those cases where the actual value of the matrimonial assets available for distribution is sufficiently high, the

2007 Transfer Order provides that the net value instead of the gross value shall be used to determine whether the proceedings should be transferred from the District Court to the High Court.

- (5) The new jurisdictional threshold based on net value takes effect from 1 January 2008 and applies to proceedings under Part X of the Women's Charter commenced on or after 15 December 2003. However, proceedings under Part X of the Women's Charter which have already been transferred to the High Court based on the gross value threshold, pursuant to the 2003 Transfer Order or the 2005 Transfer Order, will not be affected and will remain in the High Court.
- (6) Practitioners should pay particular attention to the requirement of leave to appeal in the relevant provisions of the 2007 Transfer Order.
- (7) Practitioners are responsible for identifying the correct Transfer Order applicable to their case.
- (8) A sub-registry of the Registry of the Supreme Court (referred to in this direction as the "sub-registry of the Supreme Court") and sub-registry of the Registry of the Subordinate Courts (referred to in this direction as the "sub-registry of the Subordinate Courts") have been set up in the Family and Juvenile Court Building (at No. 3, Havelock Square) ("the Family & Juvenile Court").

135A. Transfer of Section 17A(2) Supreme Court of Judicature Act Proceedings to the Family Court of the Subordinate Courts

- (1) In relation to proceedings which may be heard and determined by the High Court pursuant to section 17A(2) of the Supreme Court of Judicature Act (referred to in this Part as “section 17A(2) proceedings”), the Honourable the Chief Justice has made the following orders under section 28A of the Supreme Court of Judicature Act:
 - (a) The Supreme Court of Judicature (Transfer of Proceedings pursuant to section 17A(2)) Order 1999, which came into operation on 1 August 1999 (“the 1999 Transfer Order”);
 - (b) The Supreme Court of Judicature (Transfer of Proceedings pursuant to section 17A(2)) Order 2004, which came into operation on 1 November 2004 (“the 2004 Transfer Order”); and
 - (c) The Supreme Court of Judicature (Transfer of Proceedings pursuant to section 17A(2)) Order 2007, which came into operation on 1 January 2008 (“the 2007 Transfer Order for section 17A(2) proceedings”).

- (2) To improve efficiency in the administration of justice and to provide for more speedy disposal of proceedings commenced in the High Court, pursuant to the 1999 Transfer Order, all section 17A(2) proceedings shall be transferred to and be heard and determined by a District Court.

- (3) The transfer of section 17A(2) proceedings to the District Court can result in the District Court hearing section 17A(2) proceedings in which the value of the matrimonial assets concerned far exceeds the normal civil jurisdictional limit of the District Court. Further, to encourage the growth of family law jurisprudence, the 2004 Transfer Order provides that section 17A(2) proceedings, in which there is a contested application for the division of matrimonial assets asserted by any party to the proceedings

to be worth a *gross* value of \$1.5 million or more, shall be transferred from the District Court to the High Court to be heard and determined. This “transfer back” to the High Court based on the gross value of assets applied to section 17A(2) proceedings commenced on or after 1 November 2004.

- (4) There can however be cases where the actual net value of the assets available for matrimonial distribution is in fact much lower than \$1.5 million, because of existing liabilities such as an outstanding mortgage loan on the matrimonial property. In order to ensure that the High Court’s resources are utilised to deal only with those cases where the actual value of the matrimonial assets available for distribution is sufficiently high, the 2007 Transfer Order for section 17A(2) proceedings provides that the *net* value instead of the *gross* value shall be used to determine whether the proceedings should be transferred from the District Court to the High Court.
- (5) The new jurisdictional threshold based on net value takes effect from 1 January 2008 and applies to section 17A(2) proceedings commenced on or after 1 November 2004. However, section 17A(2) proceedings which have already been transferred to the High Court based on the gross value threshold, pursuant to the 2004 Transfer Order, will not be affected and will remain in the High Court.
- (6) Practitioners should pay particular attention to the requirement of leave to appeal in the relevant provisions of the 2007 Transfer Order for section 17A(2) proceedings.
- (7) Practitioners are responsible for identifying the correct Transfer Order applicable to their case.

136. Documents to be filed at the Legal Registry of the Supreme Court

- (1) All documents relating to family proceedings and section 17A(2) proceedings which are to be heard and determined by the High Court shall be filed at the Legal Registry of the Supreme Court. These include:
 - (a) all originating processes to commence family proceedings before 1 April 1996;
 - (b) all subsequent applications and documents in or ancillary to family proceedings commenced before 1 April 1996;
 - (c) all applications and documents in or ancillary to family proceedings commenced on or after 15 December 2003 involving the division of matrimonial assets with a net value of \$1.5 million or more, which have been transferred to the High Court upon the direction of the Registrar of the Subordinate Courts;
 - (d) all applications and documents in or ancillary to section 17A(2) proceedings commenced on or after 1 November 2004 involving the division of matrimonial assets with a net value of \$1.5 million or more, which have been transferred to the High Court upon the direction of the Registrar of the Subordinate Courts; and
 - (e) all applications and documents to vary any Order of the High Court in the proceedings referred to in sub-paragraphs (1)(a) to (d).
- (2) Save for the documents listed in sub-paragraph (1), the Legal Registry will cease to accept the filing of the processes in relation to family proceedings with effect from 1 April 1996. These processes shall be filed at the sub-registry of the Supreme Court at the Family and Juvenile Court.
- (3) For the avoidance of doubt, all documents relating to family proceedings that are filed at the Legal Registry shall bear the title “In the High Court of the Republic of Singapore”.

137. Forms of orders, including *Mareva* injunctions and search orders⁺

- (1) The format of all orders made in applications taken out in proceedings by way of writ of summons under Part X of the Women's Charter (Cap. 353, 1997 Rev Ed) on or after 1 April 2006 shall comply with Form 25 of the Women's Charter (Matrimonial Proceedings) Rules 2005 (S 854/2005). Orders made in proceedings commenced by way of petition under Part X of the Women's Charter shall comply with Form 24 of the Women's Charter (Matrimonial Proceedings) Rules (Cap 353, R 4, 2004 Rev Ed).
- (2) Paragraphs 41 and 42 shall be applicable to an application for a *Mareva* injunction and a search order. The orders of Court for such applications shall contain the text set out in Forms 8, 9 and 10 of Appendix A of these Practice Directions.

⁺ Formerly known as "*Anton Piller* order".

138. Certificate of Making Interim Judgment Final

- (1) This paragraph applies to proceedings commenced under Part X of the Women's Charter (Cap. 353, 1997 Rev Ed).
- (2) The Certificate of Making Interim Judgment Final (Form 26 of the Women's Charter (Matrimonial Proceedings) Rules 2005 (S 854/2005)) shall be submitted by entering the relevant information in the appropriate electronic template without attaching the document in the portable document format (PDF).
- (3) Upon the Court's acceptance of the submission of the documents under sub-paragraph (2) above, the Electronic Filing Service will auto-generate the document in PDF, based on the information furnished by the parties in the electronic template, and a copy of the said document will be sent to the party who made the submission.
- (4) Sub-paragraphs (2) and (3) shall also apply to the submission of a Certificate of Making Decree Nisi Absolute (Form 22 of the Women's Charter (Matrimonial Proceedings) Rules (Cap 353, R 4, 2004 Rev Ed)) in relation to proceedings commenced by way of petition under Part X of the Women's Charter before 1 April 2006.

139. Appeals on ancillary matters in Divorce Proceedings, Custody Matters or Section 17A(2) Supreme Court of Judicature Act Proceedings from the Family Court to the High Court

- (1) Appeals against final orders made by the District Judge in chambers on ancillary matters in divorce proceedings under the Women's Charter (Cap. 353, 1997 Rev Ed), custody proceedings under the Guardianship of Infants Act (Cap. 122, 1985 Rev Ed), or section 17A(2) proceedings are governed by Order 55C of the Rules of Court. In practice, the District Judges furnish grounds of decision within 8 weeks of the filing of the notice of appeal although the furnishing of grounds of decision is not a requirement under the Rules of Court.

- (2) To facilitate the conduct of appeal hearings before the Judge of the High Court in Chambers, parties are required to file the following documents prior to the appeal hearing:
 - (a) the appellant shall, within one week from the date of the release of the grounds of decision, file his submission, the record of appeal, and where the record of appeal exceeds 1000 pages, a core bundle, and serve a copy thereof on every respondent to the appeal or his solicitor; and
 - (b) the respondent shall, within one week from the date of the service of the documents referred to in sub-paragraph (2)(a), file his submission and a supplemental core bundle, where necessary, and serve a copy thereof on the appellant or his solicitor.

- (3) The submissions to be filed by parties shall set out as concisely as possible:
 - (a) the circumstances out of which the appeal arises;
 - (b) the issues arising in the appeal;
 - (c) the contentions to be urged by the party filing it and the authorities in support thereof; and
 - (d) the reasons for or against the appeal, as the case may be.

- (4) The parties shall file together with their submissions a bundle of authorities relied on by the Court below as well as other authorities to be relied on at the hearing of the appeal and serve such bundle of authorities on the other party.

- (5) The record of appeal shall consist of:
 - (a) the notice of appeal;
 - (b) the certified copy of the grounds of decision;
 - (c) the certified copy of the notes of evidence;
 - (d) the originating process and all subsequent pleadings;
 - (e) the affidavits filed or referred to by parties for the hearing and any other documents, so far as relevant to the matter decided and the nature of the appeal; and
 - (f) the judgment or order appealed from.

- (6) The core bundle shall contain a copy of:
 - (a) the grounds of decision;
 - (b) the judgment or order appealed from;
 - (c) the documents, including notes of evidence, pleadings and affidavits or portions thereof that are of particular relevance to any question in the appeal or that will be referred to at the appeal; and
 - (d) an index of the documents included therein, which shall cross-refer each document to its location in the record of appeal.

- (7) If the respondent intends to refer to documents at the appeal that are not included in the core bundle filed by the appellant, the respondent shall file a supplemental core bundle that contains a copy of the documents, together with an index of the documents which shall cross-refer each document to its location in the record of appeal.

- (8) The core bundle filed by the appellant shall not exceed 100 pages and the supplemental core bundle filed by the respondent shall not exceed 50 pages. In computing the number of pages, the copy of the order appealed from, the grounds of decision and the index of documents shall be excluded. The Judge of the High Court may take into consideration any failure to comply with this direction in deciding the costs to be awarded at the hearing of the appeal.
- (9) The submissions, the record of appeal, the core bundle and the respondent's core bundle shall be filed at the Registry of the Subordinate Courts.
- (10) In order to assist the Judge hearing the appeal, the appellant and the respondent are to tender one hard copy of the record of appeal, submissions and the core bundle, where applicable, as well as any bundle of authorities to be relied upon to the Legal Registry of the Supreme Court not less than 5 working days before the hearing of the appeal.